

IPR2015-01030
Patent No. 8,518,987 B2

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUPIN LIMITED
Petitioner

v.

JANSSEN SCIENCES IRELAND UC
Patent Owner

Case IPR2015-01030
Patent 8,518,987 B2

**PETITIONER LUPIN LIMITED'S REPLY REGARDING
THE IDENTIFICATION OF REAL PARTIES-IN-INTEREST**

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TABLE OF AUTHORITIES

Federal Cases

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<i>Intellectual Ventures Mgmt., LLC v. Xilinx, Inc.</i> , IPR2012-00018, Paper 12 (P.T.A.B. Jan. 24, 2013)	1
<i>Par Pharm., Inc. et al. v. Jazz Pharm., Inc.</i> , IPR2015-00546, slip op. (Paper 25) (P.T.A.B. July 28, 2015)	2, 13
<i>RPX Corp. v. VirnetX Inc.</i> , IPR2014-00171, slip op. (Redacted Paper 49) (P.T.A.B. July 14, 2014)	5
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<i>ZOLL Lifecor Corp. v. Philips Elecs. N. Am. Corp.</i> , IPR2013-00609, slip op. (Paper 15) (P.T.A.B. Mar. 20, 2014)	3, 7, 12

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Other Authorities

Trial Practice Guide,
77 Fed. Reg. 48,756 (Aug. 14, 2012) 1, 2, 3, 5

I. INTRODUCTION.

Pursuant to the Board's Order on August 14, 2015 (Paper 10), Petitioner Lupin Limited ("Lupin Ltd.") replies to Patent Owner Janssen Sciences Ireland UC's ("Janssen") assertion that the above-captioned *inter partes* review Petition improperly failed to name Lupin Ltd.'s unrelated subsidiaries as "real parties-in-interest" ("RPIs"). Janssen has failed to show such subsidiaries qualify as RPIs.

II. LEGAL STANDARD.

Patent owners challenging a petitioner's RPI disclosure must sufficiently show the disclosure is inadequate. *Intellectual Ventures Mgmt., LLC v. Xilinx, Inc.*, IPR2012-00018, Paper 12 at 4 (P.T.A.B. Jan. 24, 2013). The RPI is "the party that desires review of the patent," and "at whose behest the petition has been filed." Trial Practice Guide, 77 Fed. Reg. 48,755, 48,759 (Aug. 14, 2012). The RPI requirement exists to ensure that a non-party is not "litigating through a proxy." *See Aruze Gaming Macau, Ltd. v. MGT Gaming, Inc.*, IPR2014-01288, slip op. (Paper 13) at 12 (P.T.A.B. Feb. 20, 2015) ("*Aruze*"). The RPI analysis is a narrowly tailored inquiry into the "relationship between a party and a *proceeding*," not "the relationship between *parties*." *Id.* at 11.

Whether a party, not a named participant in a given proceeding, is a RPI to that proceeding "is a highly fact-dependent question." Trial Practice Guide, 77 Fed. Reg. at 48,759; *see also Par Pharm., Inc. et al. v. Jazz Pharm., Inc.*, IPR2015-

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